

The council created under the Drycleaner Environmental Response Trust Act determines categorization of solvents for dry cleaning solvent tax liability purposes. See 415 ILCS 135/65(a). (This is a GIL.)

August 3, 2004

Dear Xxxxx:

This letter is in response to your letter dated February 3, 2004, in which you request information. The Department issues two types of letter rulings. Private Letter Rulings ("PLRs") are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. Persons seeking PLRs must comply with the procedures for PLRs found in the Department's regulations at 2 Ill. Adm. Code 1200.110. The purpose of a General Information Letter ("GIL") is to direct taxpayers to Department regulations or other sources of information regarding the topic about which they have inquired. A GIL is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120. You may access our website at www.ILTAX.com to review regulations, letter rulings and other types of information relevant to your inquiry.

The nature of your inquiry and the information you have provided require that we respond with a GIL. In your letter you have stated and made inquiry as follows:

We are a family owned drycleaners. Two years ago we replaced our older perchloroethylene machines with new machines that use Rynex, a non-toxic, biodegradable cleaning solution. As of this time, the General Assembly has not yet approved a category that encompasses 'green' solvents like the one we use.

On November 4, 2003, Senate Bill 2105 was introduced to amend the Drycleaner Environmental Response Trust Fund Act. The amendment provides that 'green solvent' or 'green drycleaning solvent' includes Rynex, GreenEarth, and CO2 and C10-C13 isoparaffin hydrocarbon solvents. Also proposed was that on and after January 1, 2004, no tax is imposed with respect to the use of green solvents.

For the past two years (2002-3) we have been paying tax on our solvent, even though there is no category for it. It is our opinion that we are being penalized by being charged the highest tax rate in order to receive our license.

As of this time, there has been no legislative action approving a tax for solvents other than chlorine and petroleum. We are being forced to pay tax equal to chlorine, the greatest polluting solvent used today, and therefore the highest tax, currently \$3.50 per gallon for 2003. Petroleum solvents (also a known polluting solvent) are taxed at thirty-

five cents per gallon. In actuality our Rynex solvent does not fit into either of the two existing categories.

We feel that as an operator that has made the change to a non-toxic, biodegradable solvent we are being unfairly taxed. We request that we be exempt from all tax as such an operator. Further, should it be determined that a tax should be collected from us, that it be under the petroleum category.

WE REQUEST that a Private Letter Ruling be issued regarding our past and future tax burden on the uncategorized solvent.

Our research indicates that the Senate Bill referred to in your request (SB2105) is currently pending and in consideration by the Senate Rules Committee. The Department cannot provide an opinion or give advice on proposed legislation as the proposed bill may undergo many changes or amendments before final passage.

The Drycleaner Environmental Response Trust Fund Act, 415 ILCS 135/1 et al. addresses your concerns regarding categorization of the type of solvent being used. The Council as set up under the Drycleaner Environmental Response Trust Act, and not the Illinois Department of Revenue, has the authority to and shall determine by rule which products are chlorine-based solvents, which products are petroleum-based solvents, and which products are green solvents for tax liability purposes. See 415 ILCS 135/65(a). We suggest you contact the Council for specific responses to your questions.

I hope this information is helpful. If you require additional information, please visit our website at www.ILTAX.com or contact the Department's Taxpayer Information Division at (217) 782-3336. If you are not under audit and you wish to obtain a binding PLR regarding your factual situation, please submit a request conforming to the requirements of 2 Ill. Adm. Code 1200.110 (b).

Very truly yours,

Edwin E. Boggess
Associate Counsel

EEB:msk